

Meeting of 2000-10-24 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 24, 2000 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager John Vincent, City Attorney
Brenda Smith, City Clerk
LTC Anthony Puckett, Fort Sill Liaison

The meeting was called to order at 7:10 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
James Hanna, Ward Two
Glenn Devine, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Barbara Moeller, Ward Six
Stanley Haywood, Ward Seven
Michael Baxter, Ward Eight

ABSENT: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF OCTOBER 10, 2000.

MOVED by Hanna. SECOND by Baxter, for approval of the minutes. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Ernest Foster, 506 Arlington, objected to being required to pay a fee for an electrician's license. He said he has an Oklahoma electrical contractor's license, inactive, meaning he was not in business. Foster said he shut his business down but had been working for an electrical contractor for 15 years. He said he came to get a license because he was doing a job next to the Mayor's home and the cost of the license was \$300 because his State license said electrician, contractor, inactive, rather than journeyman or master electrician. Foster said he does not carry insurance or pay workers' comp but works for an electrical contractor. He said he had been working out of Lawton for five or ten years but came back and wanted a license to be legal to work in Lawton, but for \$300 he would let the inspector come to the job and fine him for the rest of the year before he would pay \$300 for an electrician's license. Foster said he works in Altus, Lawton and Norman, and if he had to pay \$300 in each city, he would have to pay \$900, which is an injustice to a construction worker. Foster asked that something be done.

Bill Wallace, 1507 SW 7th Street, requested that SW 7th Street be considered in use of the remaining \$3 million from the 1995 CIP. He said 7th Street was scheduled to be repaved and have curbing installed a few years ago, but 8th Street was done instead; 7th is the only street between 6th and 11th in that area of town without curbing, which causes dirt to wash into the storm sewer creating further problems.

UNFINISHED BUSINESS:

1. Consider a resolution authorizing the installation of traffic control devices on NE Angus Place. Exhibits: Resolution 00-95.

Purcell said the traffic problems at Pioneer Park School are similar to those at other schools, and that he and Devine had observed the area looking for a solution. He said four buses go to the school daily for special needs students, and a one-way traffic pattern would cause those children to have to cross Angus Place, which is not acceptable. Purcell said he met on site with Officer Martin, who is a representative to the Traffic Commission; Larry Wolcott, Traffic Engineer; three neighbors who suffer the problems of the traffic; the Principle and Mrs. Lail who spoke at the Council meeting. He said the result of that meeting was the recommended action tonight, and it may not be the final answer but the proposal is to try it

for 90 days, and if it makes things worse or does not help, something else can be done.

Purcell said the proposal is that there will be no parking, no stopping and no standing on the west side of Angus Place during the hours of 8 a.m. to 9 a.m. and 3 p.m. to 4 p.m. He said the objective of the plan was the safety of the children first, and the second was convenience of parents. Purcell said on the east side of Angus Place, signs will be placed showing no parking, loading zone only, between the hours of 8 a.m. to 9 a.m. and 3 p.m. to 4 p.m. He said parents are parking along the street causing problems.

MOVED by Purcell, SECOND by Devine, to adopt Resolution 00-95 authorizing the installation of traffic control at the specified locations.

Purcell said as an aside, this will be for 90 days and we will re-look at if things get worse.

Cheryl Lail said there has been a major change in leadership at Pioneer Park, and she requested any changes be tabled except for the placement of no parking signs at the very north end of the street to allow Mr. Thomas Perry entrance to his driveway. She said Mr. Tregilus had left the school unexpectedly and she had not been able to determine when a permanent principle would be assigned. Lail said there are several major PTA fund raising activities planned at Pioneer Park that would be run with an interim principle, meaning the parents would have to shoulder all of the weight to make them successful. She suggested it be tabled until a permanent principle is assigned.

Purcell said the problem is not the principle; there is still a traffic problem and this can be looked at again in 90 days. He said action is needed due to the safety and congestion issues.

Baxter asked if Mr. Perry agreed with Purcell's proposal. Perry said there is a safety problem for the children, and the parents want to park and stay as long as they need to without having respect or courtesy for other drivers, or for him as a resident on that street. Perry said he felt the no parking signs could help eliminate the problem.

Sandy Foster, PTA President at Pioneer Park, said Mrs. Lail was not asked her opinion during the meeting Purcell spoke of. She asked where the parents who take part in the school activities are supposed to park. Purcell said this is only for one hour in the morning and one hour in the afternoon, and they would park the same place they had parked for the last twenty years the rest of the time. Purcell said it should not have an impact on fund raisers or PTA meetings because it is only for two hours each day. Purcell said there is still a problem for fund raisers, PTA meetings and carnivals and that he would work with Mr. Beauchamp at a later date to see if something can be done about parking, but they were trying to solve an immediate problem.

Mr. Melvin, 152 NE Angus, said he lives just around the corner and when the school has special events, Angus Place is blocked with cars parked on either side of the street, as well as parking on Rogers Lane. He reviewed the numbers of cars and buses that use a very narrow street near the school and expressed a need for a permanent parking lot to be built for the school employees and parents. Melvin suggested parents only stop to let children out or use the parking lot, rather than parking on the street. Purcell said the City could not do anything about a parking lot but he would talk to Mr. Beauchamp.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-95

A resolution authorizing the installation and/or removal of traffic control devices at certain designated locations within the City of Lawton, Oklahoma. Location: "To install "No Parking, Stopping, or Standing 8:00 a.m. to 9:00 a.m. and 3:00 p.m. to 4:00 p.m. School Days" signs on the west side of NE Angus Place from Rogers Lane to NE Angus Street; To install "No Parking/Loading Only 8:00 a.m. to 9:00 a.m. and 3:00 p.m. to 4:00 p.m. School Days" on the east side of NE Angus Place from the south boundary of the existing handicapped loading area to the south driveway of the north parking lot."

Mayor Powell asked that Item 2 be considered with Item 19 later in the meeting.

3. Consider request from the Bureau of Indian Affairs and provide comments on acquisition of property into tribal trust land on East Gore Boulevard, and authorize the Mayor to comment to the Bureau of Indian Affairs. Exhibits: Agenda Item; Revised Letter.

16. Consider a request from the Bureau of Indian Affairs and provide comments on acquisition of property into tribal trust land on SE Lee Boulevard, and authorize the Mayor to comment to the Bureau of Indian Affairs (BIA). Exhibits: Letter from BIA; Location Map; Memo from City Attorney; Proposed Letter.

Items 3 and 16 were considered at this time.

Vincent said Item 3 is about a tract of land extending south from Gore Boulevard, and this was tabled at the October 10 Council meeting to allow staff to meet with BIA officials in Anadarko. He said the tract is, in fact, in Comanche Tribal Trust but the BIA asked that Lawton respond as if it were not in trust. Vincent said another request was then received from the BIA which involves land that is in Comanche Tribal Trust that is being purchased by the Fort Sill Apache Tribe, and this land extends south from the land just discussed in Item 3 all the way to Lee Boulevard, and the BIA asked that Lawton respond as if it were not in trust status. Vincent said one concern is that the land is in floodplain and another concern is

that the northern tract extends into Gore Boulevard and the southern tract extends into Lee Boulevard. He said he had been in touch with Robert Prince, the attorney representing the Fort Sill Apache Tribe, and if the request is granted by the Anadarko office of the BIA and approved by the Washington D.C. office, the Fort Sill Apaches would work with the City of Lawton to have the portion in the right of way for Gore and Lee removed from trust status so the Lawton Police Department would have jurisdiction. Vincent said the recommendation is to approve the letters proposed and written by Mr. Bigham on both items and authorize the Mayor to sign the letters to the BIA.

MOVED by Smith, SECOND by Purcell, to approve Items 3 and 16 as recommended.

Shanklin asked if they would pay taxes or accept Lawton police on their land. Vincent said he was only speaking of the portion on the right of way. Shanklin asked if Indian sovereignty would apply so they would not have to pay taxes. Vincent said they do not have to pay taxes under either tribe. Shanklin asked if they would be able to develop more and Vincent said yes. Shanklin said he did not want them to be able to develop more if they were not going to pay their fair share of taxes. Purcell said the recommendation is to oppose the request, and Vincent agreed. Shanklin said he thought Vincent was speaking in favor of it. Vincent said if the BIA should approve it, there will be the issue to deal with on Gore and Lee, and a plan has been developed for that. Mayor Powell said it states in the commentary that if this is approved that they will pay taxes at some time, but not tonight.

Robert Prince, attorney for Fort Sill Apache Tribe, said they want to develop economically but not to deprive the City of a just amount of revenue because they were receiving City services, so some type of an agreement would have to be worked out, and the business committee of the Fort Sill Apache Tribe was more than willing to work with the City and the State to develop the area and also pay fair taxes. Mayor Powell said the action tonight has nothing to do with that and Prince agreed. Prince said they were only requesting to buy the Kerchee property which is in trust status now, to be conveyed to the Fort Sill Apache Tribe in trust, and then somewhere down the line, several years perhaps, they would try and do some economic development. Mayor Powell said it would be addressed at that time then.

Shanklin asked if we were giving ourselves away, or are we turning it down. Purcell said the City would respond that it was not in favor, but that did not mean the response would be approved. Prince said Vincent was trying to convey their conversation that assuming the BIA does transfer it from the Comanches to the Fort Sill Apaches, then the City has an easement problem because a road is built there and there would be jurisdictional problems. Prince said he told Vincent they could take care of those quite easily by divesting themselves of the jurisdiction of that portion of the roadway.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

Mayor Powell said he talked to Baker about the \$300 electrician's license and Baker will check into it. Shanklin said Dan Tucker was checking and the problem is that his State license states he is a contractor. Shanklin said he told Foster to stay at work and if they want to shut him down, they would do something then, but Tucker had not responded yet to him. Tucker said there was no question that Foster was a qualified electrician; the State issues a license and the City registers that State-issued license in the category in which it is issued. Tucker said if the State would issue the license as an inactive contractor/journeyman, it could be done tomorrow after turning in the fees. Shanklin asked if that was State Statute or City Code. Tucker said the State issues three categories of licenses, and Lawton registers persons in those categories. Tucker said he did not have the ability to tell a contractor that he is a journeyman and whatever category of license the person brings from the State is what is registered in Lawton. Tucker said if Foster wanted to go back into business for himself, he would simply put his number back in the phone book and become a contractor.

Devine said he and his son were both plumbing contractors, and it was senseless for both of them, working out of the same business, to have contractors licenses. He said the State issued a contractors license to his son in an inactive status so they do not have to pay that, and his son was now working under the State license as a journeyman, so it is a simple process.

4. Consider adopting an ordinance amending Section 19-413, Chapter 19, Lawton City Code, 1995, by changing the time period during which hunting in the area of the recreational vehicle race track at Lake Ellsworth is prohibited; and amending Section 19-603, Chapter 19, Lawton City Code, 1995, by permitting the operation of recreational vehicles in the same area during the entire time period hunting is prohibited; providing for severability and declaring an emergency. Exhibits: Ordinance 00-40.

MOVED by Purcell, SECOND by Devine, to approve Ordinance 00-40, waive the reading of the ordinance, read the title only, and declare an emergency.

Shanklin asked if this would be to approve alternate four as was discussed in the Water Authority and Purcell said yes. (Alternate four would allow hunting in the RV track area from the last Saturday in October through December 15, and the track would be used by RV's only the rest of the year.)

SUBSTITUTE MOTION by Shanklin, SECOND by Haywood, to allow hunting Monday through Friday and the RV riders on the weekend from October 28 through January 31.

Mayor Powell said he asked the City Attorney if Council can act on this without a recommendation from the Water Authority and the response was yes, and it was considered by the Authority.

VOTE ON SUBSTITUTE MOTION: AYE: Haywood, Shanklin. NAY: Moeller, Smith, Hanna, Devine, Purcell, Baxter. SUBSTITUTE MOTION FAILED.

Mayor Powell asked for reading of the title and roll call on the original motion.

(Title read by Clerk) Ordinance 00-40

An ordinance relating to recreation, amending Section 19-413, Chapter 19, Lawton City Code, 1995, limiting hunting in the area of the recreational vehicle race track at Lake Ellsworth; amending Section 19-603, Chapter 19, Lawton City Code, 1995, limiting the operation of recreational vehicles during certain times of the year; providing for severability and declaring an emergency.

VOTE ON ORIGINAL MOTION: AYE: Smith, Hanna, Devine, Purcell, Moeller. NAY: Haywood, Shanklin, Baxter. MOTION CARRIED.

Vincent said the ordinance passed but the emergency clause failed so the ordinance would not go into effect for 30 days.

MOVED by Purcell, SECOND by Smith, to reconsider the vote that was just taken. AYE: Smith, Hanna, Devine, Purcell, Moeller. NAY: Baxter, Shanklin, Haywood. MOTION CARRIED.

Purcell said without the emergency clause, the existing ordinance would remain unchanged for 30 days.

MOVED by Baxter, to leave ordinance section 19-413, Chapter 19 of the Lawton City Code, 1995, and also ordinance section 19-603, Chapter 19 of the Lawton City Code, 1995, just like it is right now and do not change a thing. The motion died for lack of a second.

MOVED by Purcell, SECOND by Devine, to pass Ordinance 00-40, read the title only if that is needed again, and declare an emergency.

Purcell said six votes are needed to declare the emergency. Shanklin asked how many times this would be done. Baxter said until Purcell gets what he wants. Purcell said it is perfectly acceptable to reconsider due to the situation with the emergency section. Smith said this alternative was the one the hunters said they wanted. Baxter said the deer hunters agreed but the quail hunters were not considered.

VOTE ON MOTION: AYE: Smith, Hanna, Devine, Purcell, Moeller. NAY: Shanklin, Haywood, Baxter. MOTION CARRIED; ORDINANCE PASSED BUT EMERGENCY CLAUSE FAILED.

BUSINESS ITEMS:

5. Hold a public hearing and adopt a resolution declaring the structure at 1711-1/2 SW E Avenue to be dilapidated and detrimental to the health and safety of the community; authorize the expenditure of General Funds to demolish the structure. Exhibits: Resolution 00-_____.

Tucker reviewed lengthy history of this property and presented a video. This structure is on the alley; it is not the main structure at 1711 SW E Avenue.

PUBLIC HEARING OPENED.

Chung Graham, owner, said she had responded to the numerous complaints and orders from the City and felt she was being discriminated against as other properties in the area are in similar or worse shape than hers but the City takes no action against them. She said this house is boarded up and has no means of entry so it was not a hazard in any way to people or the area. Graham said she had taken video of other properties. The Mayor asked that she give the video to Mr. Tucker.

Shanklin said Council directed staff to be reactive instead of proactive and he wanted the city to be cleaned up and blighted areas to be removed, and that it should be done in a fair and equitable manner. He suggested the inspectors bring a list of locations, rather than singling out just one. Baker said staff will be concentrating on dilapidated structures in the next three months. Purcell said staff brings properties to Council time after time but Council's actions allow for the problems to remain. Moeller asked the criteria for a property to be declared dilapidated. Mayor Powell asked that staff provide that information.

Shanklin said this property is secured and structurally sound so Ms. Graham should be given time to make plans on how she wanted to proceed.

MOVED by Shanklin, SECOND by Baxter, to table this property until a list is received from Neighborhood Services. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

6. Hold a hearing to consider an appeal concerning the Administrative Order to abate high weeds and grass at 1338 NW Ash and affirm, reverse or modify the Administrative Order. Exhibits: Appeal; Memo.

Angie Alltizer, Assistant to the City Manager, said the property was in need of mowing at the time the Administrative Order was issued; it has since been brought into compliance by the owner and no further action is planned. She recommended the Administrative Order remain in effect to allow actions to be taken if high weeds and grass are present within the next six months with no further notice to the property owners. Hanna asked how many administrative orders had been issued against this property this year and Alltizer said this was the first one.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Hanna, SECOND by Smith, that the administrative order remain in effect. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

7. Consider adopting an ordinance, and adopting a resolution, amending Chapter 7, Lawton City Code, 1995, Article 12, Section 1202, License Required, by providing for a special itinerant vendors license in a specified area for the period of November 15th through January 3rd, authorizing a fee therefor; providing for severability and declaring an emergency. Exhibits: Ordinance 00-41; Resolution 00-96.

Vincent said the Boulevard of Lights committee expressed concern about vendors operating during the various activities so the ordinance and resolution were developed to allow the Boulevard of Lights Festival Committee and the City to enter into agreements with the vendors to restrict the hours and area of operation. The fee would be \$75 and the time would be from November 15 through January 3 of each year. He recommended approval of the ordinance and resolution.

MOVED by Purcell, SECOND by Smith, to approve Ordinance 00-41, read the title only and declare an emergency, and also approve Resolution 00-96.

Baxter asked why this came up and who was doing what they were not supposed to be doing. Vincent said it is really to address the lack of control over the vendors.

Richard Williams, Boulevard of Lights Committee, said they never had control regarding the vendors, and many people buy items from the vendors thinking the proceeds are going to support the event, which is not the case. Williams said it would help establish control over who sells what items at the festival.

Devine asked if the Boulevard of Lights would be able to receive any revenue from the vendors. Williams said there would be a minimal charge by the committee, but they really wanted to be able to identify which vendors would be there for some kind of control. Devine asked if the committee had considered charging a percentage to produce revenue to keep the Boulevard of Lights going. Williams said they had discussed it but it would be difficult to place a responsibility on the vendors to try to account for how much they might have sold, as opposed to a flat fee, and they had not identified a flat fee but were thinking about \$35 or no more than \$50.

(Title read by Clerk) Ordinance 00-41

An ordinance amending Chapter 7, Lawton City Code, 1995, Article 12, Section 1202, License Required, by providing for a special itinerant vendors license in a specified area for the period of November 15th through January 3rd, authorizing a fee therefore; providing for severability and declaring an emergency.

(Title only) Resolution 00-96

A resolution amending the Schedule of Fees and Charges for business, for itinerant vendors and providing for an effective date.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

8. Consider adopting an ordinance amending Section 6-503, Chapter 6, as previously amended, and Section 6-1-1-108, Chapter 6, Lawton City Code, 1995, by providing for reconstruction of a structure that is unsafe. Exhibits: Ordinance 00-42.

Shanklin said this provides that if a structure is to be reconstructed, a permit could be issued for 90 days or the Council may grant one for 60 days, and the work could be judged on 30-day increments. Vincent said there are provisions for structures damaged by fire or storms to have 90-day permits which can be renewed an unlimited number of times for 60 days at a time. Vincent said the other portion deals with dilapidated buildings that have been placed on condemnation but the Council has given a reprieve; the initial permit would be 90 days and there would be an option to renew at the Council's discretion for 30 days additional only three times.

MOVED by Shanklin, SECOND by Baxter, to approve Ordinance 00-42, waive reading of the ordinance, and read the title only.

Purcell asked if there was a fire, does the person have to get the permit within 90 days of the fire. Shanklin said they have 90 days to work it out with the insurance company or whatever the case. Purcell asked if that is long enough. Shanklin said if the insurance company needs longer, they can renew it. Vincent said there are 60 day renewals with unlimited renewals at Council discretion.

(Title read by Clerk) Ordinance No. 00-42

An ordinance relating to the reconstruction of existing structures, amending Section 6-5-1-503, Chapter 6, of the Lawton City Code, 1995, previously amended, and amending Section 6-1-1-108 by enacting Subsections G and H of this section; providing for severability and an effective date.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

Devine asked if the emergency clause passed on Item 4. Purcell said the ordinance passed but not the emergency. Devine said he thought it passed when it was reconsidered. Purcell said six votes were not in favor so the emergency was not enacted. Devine asked if it could be brought up again. Vincent said it can be brought back up tonight under Section 5-6 of the Council Policy as long as a person that voted in the affirmative for the motion makes the motion to reconsider such as Purcell did earlier.

MOVED by Devine, SECOND by Purcell, to reconsider Item 4. AYE: Moeller, Haywood, Smith, Hanna, Devine, Purcell, Shanklin. NAY: Baxter. MOTION CARRIED.

MOVED by Devine, SECOND by Smith, to approve Ordinance 00-40 that includes alternative four and declare an emergency. AYE: Haywood, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: Baxter. MOTION CARRIED, EMERGENCY CLAUSE PASSED.

9. Consider the renaming of SW C Avenue between South Railroad Street to SW 11th Street, to SW Main Street, and consider holding a public hearing to receive input from the interested owners on SW C Avenue. Exhibits: Map.

Baxter said he was told he had to bring this to Council to ask if they could hold a public hearing, and that he was not the only member who brought this up and that Councilman Shanklin's name should have also been shown as an initiator because it is his ward.

MOVED by Baxter, SECOND by Devine, to consider holding a public hearing to receive input on renaming SW C Avenue from S Railroad Street to S 11th Street to SW Main Street.

Mayor Powell asked the date of the hearing and Bob Bigham, City Planner, will select an appropriate date, notify Council, affected property owners and publish the required notice.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

10. Receive a briefing from the Planning Department on the Project Impact Grant. Exhibits: Project Impact Information.

Bob Bigham, City Planner, reviewed background, presented a video and brochure explaining this program. Lawton is the fourth community in Oklahoma to participate, along with 61 other communities in the nation. FEMA started the program in 1997. The City's Emergency Operations Plan deals with what happens after a disaster occurs, and Project Impact deals with planning before a disaster happens to address things a community can do to mitigate damages.

Bigham said a key point is partnering with the private sector to reach a common plan to prevent future damages. Four phases are building community partnerships, meeting with this partnership to assess the risks particular to our community, and prioritizing the needs to carry out the projects which FEMA has \$300,000 in seed money to carry out this part of the program, and the last part is to communicate to the community what the programs are about and celebrating the successes. Bigham said they certainly want to visit with Fort Sill in addressing the partnership portion.

Baxter commended Bigham's efforts on this program. Baker said the local share is \$100,000 and that is being considered as the 1995 CIP package is being developed. Bigham said this is a two-year program, and the clock starts when the first funds are drawn down.

11. Receive a briefing on the new Oklahoma Police Corps and authorize the Police Chief to make application and sign the required documents. Exhibits: None.

Bill Adamson, Police Chief, said the program is sponsored through a grant from the federal government and it will be run by the Department of Public Safety in conjunction with CLEET. If new officers are requested through this program, they would arrive prepared to enter the field officer training program immediately upon employment. The hiring criteria is very similar to that used by Lawton. The City would receive \$10,000 per year per employee for the first four years of employment of these individuals. The program can be used to hire replacement officers, three officers are scheduled to retire next year, and it can be used to expand the force should the Council choose in the future to do so. Adamson said the first academy starts in January and he had been told he could request two or three officers. The officers would follow the same rules as every other officer, have the same standards, and receive the same pay and benefits as any other officer.

MOVED by Smith, SECOND by Devine, to authorize the Police Chief to apply for participation in the Oklahoma Police Corps Program and sign the required documents. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood,

Baxter. NAY: None. MOTION CARRIED.

12. Receive a Financial Report for the first quarter of the fiscal year. Exhibits: Report.

Steve Livingston, Finance Director, said the first quarter was completed September 30th. Water revenues, having a very hot and dry summer, are up about \$300,000 over the amount collected during the same period last year. The down side is that the budget anticipated water revenues would be up, for the whole year, by an increase of about \$302,000, so that was included in the budget. Livingston said it is really wet outside right now but for the rest of the year we can probably expect to exceed the budget in water revenue. Sales tax represents 29% of the operating revenue, and for the first quarter it is up only .03% or about \$1,000 on the whole \$3,600,000 that we collected, so sales tax was very flat in the first three months. The sales tax was up 6.38% with the check received in October, so that made the first four months up to about 1.58% which is very close to the 2% anticipated in the budget. Utilities altogether represent about 38% of the revenue, and sales tax and utilities together are two-thirds of the revenue so the trends on those issues are very important.

Livingston said use tax was down 9%, and over \$1 million is collected in use tax; the factor that has supported use tax in the last two years has been new construction. He said they were very conservative in estimating use tax and had estimated it would be down 20%, so even though use tax is down, it is a little stronger than was anticipated in the budget. Hotel/motel tax is down 14% for the first quarter, and that is seasonal and event-influenced; \$400,000 was estimated for the entire year and last year we collected around \$430,000. Overall revenues, excluding the enterprise fund, on the \$7,842,000 collected this year, last year it was \$7,841,000, and he had never seen it that close to the prior year's collection.

Livingston said in the expenditures, the final settlement with the bargaining units were reached and 3% was anticipated in the budget for salary increases. He said he did not think a supplemental would be required for either police or fire but was hoping that vacancies and all areas of the budget would overcome that, although it does represent an additional cost and will influence and reduce the carry over. Livingston said the biggest item they missed in the budget was the cost of gasoline, eighty-six cents per gallon was estimated, the September price was \$1.06, or up 25%, and that item is about \$500,000 in the budget. He said the price of fuel will also influence the price of electricity and natural gas, so those items will be in question, as well as having the hot summer that caused higher consumption.

Livingston said it appeared they would make budget on the revenues, and if the first quarter was any indication, it would be a little over. He did not anticipate a need for a supplemental on the expenditure side at this time.

Shanklin asked if anything shown on expenditures under 25% would be good news. Livingston said the Waurika payment is made almost totally in September, and a small operations payment in March, so that payment would probably show 90% spent when it is actually right on schedule. Shanklin said police and fire show 21% and 21%, and there are some encumbrances but it would not bring it to 25% so would that be good news. Livingston said he did not know of any bad news in that regard. Shanklin said Community Development had spent 41% and we have to finish the year on the rest. Livingston said they could have had a large encumbrance or contract, which could cause those figures and he did not know of a particular problem in that area with administration or anything of that nature. Purcell said a big jump will be shown in fire after the contract is implemented, so it will go up the next quarter, but the police should be around the same. Purcell said Community Development administration looked normal. Smith said under Fund 09, Other Services and Charges, there was more. Livingston said he thought that was for the HOME program.

13. Consider changing temporary part-time in the Parks & Grounds Division from three and four month seasonal maintenance positions to six month positions. Exhibits: Summary of Parks & Grounds Division seasonal positions.

Gary Salva, Parks & Recreation Director, recommended taking nine three-month seasonal positions that are currently budgeted and extend them to six-month positions, and one four-month position to six months, so there would be ten seasonal employees for six months. Employees would be here from March through September, which is the growing season. Maintenance of grounds and ball fields was a challenge this year and this is one of the solutions they would be presenting to help keep up with the new responsibilities; acreage has grown over the last ten years, as well as the number of ball fields and the number of miles they mow along the right of ways. This will affect the budget for the current year by \$29,000. Shanklin asked if funds are included in the budget already and response was yes.

MOVED by Shanklin, SECOND by Baxter, to approve the request. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

14. Consider increasing the pay for contracted sports officials. Exhibits: Summary.

Salva explained the pay for sports officials has not been increased for many years and it is not competitive with surrounding communities. Pay for basketball and baseball officials will be \$20 per game and for football officials it will be \$19 per game.

MOVED by Devine, SECOND by Smith, to approve increasing the pay for contracted sports officials. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

15. Appoint a City of Lawton Representative to the Cache Creek Water Supply and Flood Impact Task Force. Exhibits: Memo; Senate Bill #1375.

Mayor Powell said this will involve many issues and be very important to the City, decisions would be required and it would finally end up in the hands of the City Attorney, so he suggested appointing John Vincent, assisted by Mr. Ihler and Mr. Shaw, to be the representative on this task force.

MOVED by Smith, SECOND by Shanklin, to appoint John Vincent to the task force.

Baxter said he heard this had been going on since May and it was the first he had heard of it, and he heard a concerning rumor that the whole reason this item is being looked at and someone is being put on this board was that someone to the north was trying to take Lake Ellsworth away from us. He asked Baker if there was any substance to that rumor. Baker said he had not heard that. Vincent said three years ago the City Attorney's office, with the concurrence of Council, proposed several pieces of legislation that have gone through various committees and one passed. Vincent said the rest of the legislation was tabled and another piece of legislation was introduced to create this task force, and this is the result.

Shanklin said the language states that a study and review could be conducted on the East Cache Creek basin in order to consider alternatives to maximize water supply and minimize flooding downstream. He said a few years ago he asked the amount of acre feet of water in Lake Ellsworth and if it was the same as it was when the lake was built and staff said that it is, so it is a viable water supply. Shanklin said if it would have silted in, there would have been a move on to make it a flood control lake.

Purcell said he and Vincent testified last year and could not get the legislation, so about all that happened was if others sue Lawton, they have to do it in Comanche County; this was an attempt to stop the downstream problem. Shanklin asked how this would stop the problem. Purcell said they did not know and that was why there was a study involved. Shanklin said the Corps of Engineers studied it three times.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

17. Consider a Request for Proposal for an Information Technology Consultant and authorize staff to solicit proposals. Exhibits: Request for Proposal.

Livingston said funds were included in the Finance Department budget to upgrade software, and they have looked at software and talked with other cities to try to come up with the best way to find the best software. He said they felt it would be of great benefit to have a consultant assess the needs because they would be familiar with a lot of software, and there is a potential to select the wrong software or identify the wrong needs and waste some money so we would probably be better off in the long run to get some advice. He said they visited with the staff in Oklahoma City and found that they had contracted with a consultant, bought software, had an in-house MIS staff, and recommended those steps.

Shanklin asked what kind of money they were talking about and Livingston said they really did not know. Livingston said this is to receive proposals and at that point, we would know how much money we would be talking about; this is not to select a firm, but only to advertise.

Baxter said Lawton is not Oklahoma City; this same thing was done in Wichita Falls and it cost them \$2.2 million for the consultant and the items they purchased from the consultant's recommendations and it did not work for their city, they wasted \$2.2 million in Wichita Falls. He said he hated consultants and thought it was a waste of money; we have people we are already paying good money in this city system that work for this city already that can handle all the needs and recommendations that we need to have rather than paying a consultant.

Purcell said he disagreed with Baxter; there is a problem in information technology, people buy things and are told they will work and spend very large amounts of money and the technology does not do at all what they wanted, which is a waste of money. He said unless you get someone who is familiar with all of the software that is available throughout the nation, it would not work out, and if you do not pick the right consultant, you could end up with a problem like Wichita Falls, if that was what happened.

MOVED by Purcell, SECOND by Haywood, to approve the Request for Proposals for an Information Technology Consultant and authorize staff to solicit proposals.

Baxter suggested rejecting Purcell's proposal due to the fact that Mr. Wells is on staff, he is more than qualified and just got an award two weeks ago, and we would be making a mistake to pay someone else to do what he can do. Smith said this is just asking people what they would charge to give us advice.

Shanklin said he did not think Council had to give its approval to advertise for RFP's. Purcell said they did not have to, but it is an important issue. Baker said staff could have advertised the proposal without Council approval, but he wanted to bring it to see the opinion and whether there was an interest in pursuing this. Baker said there is a real difference of opinion among staff in this particular matter; one director feels strongly one way and others on staff feel strongly the other way, and the proposal would show what is out there and what it would cost, and if staff feel it is cost prohibitive or a waste of time, that recommendation could be made, and Council approval would be required. Baker said some feel most computer work needs to be done in-house and program everything ourselves, and some feel it is better to buy it off the shelf because there is software available to accommodate most things; we are having a little bit of that debate among the

staff right now. Shanklin said he would be interested in hearing the pros and cons of it. Baxter said Wells can do it in-house. Purcell said software vendors will be at NLC in Boston and they will show what is available that has been produced for others and is for sale. Purcell said Wells feels it should be done in-house, but then MIS will not have the resources necessary to do the work and this is asking for a consultant to look into it.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Smith, Hanna, Devine, Purcell. NAY: Baxter. MOTION CARRIED.

ADDENDUM 1. Consider an ordinance relating to prohibitions of minors on premises of establishments serving low point beer, amending Section 4-2-1-207, and Section 4-2-2-246, Chapter 4, Alcoholic Beverages, Lawton City Code, 1995, by clarifying and reinforcing the prohibition against minors on the premises of taverns and deleting separate and enclosed bar areas in taverns; providing for severability and declaring an emergency. Exhibits: Ordinance No. 00-43.

Vincent said a situation came up at an establishment on S 11th Street and a loophole was found in the current code. The establishment on S 11th will continue to operate under the current permits until they expire in one year.

MOVED by Shanklin, SECOND by Devine, to approve Ordinance 00-43, waive reading of the ordinance, read the title only, and declare an emergency.

Purcell asked if this applied only to taverns. Vincent said the part being corrected only applies to taverns. Purcell asked if a person under 21 is prohibited from entering a tavern. Vincent said yes. Purcell asked if a different code provision prohibits persons under 21 from entering places that sell hard liquor. Vincent said they cannot go into the designated bar area.

(Title read by Clerk) Ordinance 00-43

An ordinance relating to prohibitions of minors on premises of establishments serving low-point beer, amending Sections 4-2-1-207, and 4-2-2-246, Chapter 4 of the Lawton City Code by clarifying and reinforcing the prohibition against minors on the premises of taverns and deleting reference to separate and enclosed bar areas in taverns; providing for severability; and declaring an emergency.

VOTE ON MOTION: AYE: Moeller, Haywood, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. OUT: Baxter. MOTION CARRIED.

CONSENT AGENDA:

18. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for claims which are over \$400.00: John & Jewell Bennett and James & Teresa Johnson. Exhibits: Legal Opinions/Recommendations. (Resolution 00-97 on file in City Clerk's Office) Johnson: \$400.00.

(Title only) Resolution 00-97

A resolution authorizing and directing the City Attorney to assist John T. and Jewel Bennett in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Four Hundred Fifty-Eight and 04/100 Dollars (\$458.04).

ITEM 19 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

20. Consider approval of professional services agreement with Howard Kuchta for Centennial Coordination. Exhibits: Agreement; Resume. Action: Approval of agreement.

21. Consider authorizing the City to participate as a co-sponsor of "Project ReDirectory". Exhibits: None. Action: Approval of item.

22. Consider approving a resolution amending the Federal Fiscal year 2001-2003 Transportation Improvement Program of the Lawton Metropolitan Area to include funding to implement a public transportation system and an eighteen passenger bus for Goodwill Industries, Inc. Exhibits: Resolution 00-98.

(Title only) Resolution 00-98

A resolution adopting amendments to the Federal Fiscal Year 2001-2003 Transportation Improvement Program of the Lawton Metropolitan Area to include funding to implement public transportation and purchase of an eighteen passenger bus for Goodwill Industries.

23. Consider approving an agreement with ZOE N.E.E.D. Program, Inc. to produce a single unit of affordable housing as a Community Housing Development Organization (CHDO). Exhibits: None. Action: Approval of agreement.

24. Consider approving a Release of Mortgage on residential property belonging to Ms. Helen E. Routh at 2323 Evans, Lawton, Oklahoma, and authorize execution of the Release of Mortgage. Exhibits: None. Action: Approval of item.

25. Consider acknowledging receipt of permits for the construction of sewerlines from the Oklahoma State Department of Environmental Quality. Exhibits: None. Action: Acknowledge receipt of permits for construction of 1,890 lf of 8" sewerline and appurtenances to serve the Veterans Administration Building Sewer Line Relocation Project; and 400 lf of 8"

and 1,764 lf of 12" sewer line to serve the Lawton Industrial Park Sanitary Sewer Project.

26. Consider a revocable permit for the installation of two (2) groundwater monitoring wells located on the SW corner of West Gore Boulevard, and SW Sheridan Road, submitted by Bentley Environmental Engineering, Inc., on behalf of Circle K Store #2375. Exhibits: Letter; Revocable Permit. Action: Approval of item.

27. Consider authorizing the Mayor to sign a Member and Electric Service Agreement for electrical services at Robinson's Landing for the new lift station and restroom. Exhibits: Map. Action: Approval of item.

28. Consider rejecting bid proposals for the NW 23rd/26th Street Sewerline Upgrade (Phase I) 99-10 SSES. Exhibits: None. Action: Reject bid and authorize staff to readvertise.

29. Consider approving the following contract extensions: A) Oils, Greases & Lubricants with Equilon Lubricants f/k/a Texaco; B) Flush Truck Hose Parts with RGA Mid State Rubber; Sewer Equipment Company of America. Exhibits: None. Action: Approval of item.

30. Consider awarding contract for Aluminum Sign Blanks. Exhibits: Recommendation; Abstract. Action: Award contract to Vulcan Signs.

31. Consider awarding contract for Side Dump Trailer. Exhibits: Recommendation; Abstract. Action: Award contract to Bruckner's Truck Sales.

32. Consider awarding contract for Fibar Safety Surfacing. Exhibits: Recommendation; Abstract. Action: Award contract to Grounds for Play, Inc.

33. Consider approval of appointments to boards and commissions. Exhibits: Memo.
Pension Trust Commission: Betty Schrantz, Term: 10/24/00 to 9/27/02; Larry Benson, Term: 10/24/00 to 10/24/05.

34. Consider approval of payroll for the period of October 16 through 29, 2000. Exhibits: None.

MOVED by Smith, SECOND by Haywood, to approve the consent agenda items as recommended with the exception of Item 19. AYE: Haywood, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. OUT: Baxter. MOTION CARRIED.

2. Consider the following damage claim recommended for denial: Monica Cowan, filed by and through her attorney, Dan Hutcherson. Exhibits: Claims Memorandum/Recommendation.

19. Consider the following damage claims recommended for denial: Lynn Harper, Albert P. Jackowiak, Southwestern Bell Telephone Company, State Farm Insurance, and Christopher Hammann. Exhibits: Legal Opinions/Recommendations. Vincent recommended denial of the claim of Southwestern Bell.

MOVED by Shanklin, SECOND by Smith, to deny the claim of Southwestern Bell. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. OUT: Baxter. MOTION CARRIED.

Vincent said a substitute legal opinion had been distributed concerning the State Farm Insurance claim and he said staff continued to recommended denial of the claim.

MOVED by Purcell, SECOND by Smith, to deny the State Farm Insurance claim.

Mayor Powell said it was his understanding that the City vehicle was clearly wrong and the insurance company paid that person that the City vehicle hit, and State Farm Insurance took a subrogation form which entitled them to subrogate and get their money back from the City of Lawton. Vincent said subrogation does not apply under the Governmental Tort Claims Act; it is specifically excluded to prevent insurance companies from coming back against a city. Mayor Powell asked if the claimant had been told that. Vincent said State Farm has been told that on several claims. Chereese Bagwell, Assistant City Attorney, said she reviewed the claim and had spoken with State Farm, who has already closed this claim out. Bagwell said Mr. Carter has brought a separate claim and retained an attorney, and that claim was denied at the last Council meeting because we had not been able to get the medical information. Bagwell said Mr. Carter has the ability to bring a lawsuit against the City to resolve the matter, but the insurance company has to go back to its insured if it wants to get the money.

VOTE ON MOTION: AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. OUT: Baxter. MOTION CARRIED.

Vincent recommended denial of the claim of Christopher Hammann, through his attorney Darrell Reader. He said the claim involved an accident on Summit Street where they drove off an embankment and down into a ditch.

MOVED by Smith, SECOND by Devine, to deny the Hammann claim. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Smith. NAY: None. OUT: Baxter. MOTION CARRIED.

Vincent said the claims of Harper and Jackowiak remain on Item 19, and those are tied in with the claim of Monica Cowan,

which was Item 2 on the agenda. He said those three all involve the house at 614 and 612 NW Ferris, where we had the rat problem. Vincent said Ms. Cowan is present with her attorney; this involves some building materials and other materials that were in the back of the house that were carted off; and a claim on a broken trailer wheel. One claim involves a jeep that was hauled off and is currently in the City yard. The other claim is for a carpet cleaning machine that was also on the property and removed.

Shanklin said he asked to table the Cowan claim previously and asked if we had come up with the ticket for four and three quarter tons of debris, or did we find that we did not pick up that much material. Hedy Jackson, Assistant City Attorney, said she has the ticket.

Dan Hutcherson, attorney for Monica Cowan, said he was acquainted with the other parties but was not representing them. He said Hedy Jackson had done a very adequate job of preparing the memorandum about the law of this case; essentially it says the City was not negligent and even if the City was negligent, they are not liable. Hutcherson said we are here today to consider this \$300 claim because the County Health Department put us in this position; they are the ones that cried "rat", and the facts will show there were no rats on his client's property. He said some Council members and the Mayor visited the property, there were no rats found there.

Hutcherson said two notices were delivered to Ms. Cowan's address; one dealt with rats in trees, but she did not have a tree with a rat in it, there was no action to take, there was no harborage for rats because they could not find the presence of rats. He said another notice was delivered a short time later from the City stating there was high grass, and they abated that problem, the City did not clean up this property for high grass or weeds. Hutcherson said if the County Health Department was the one that cried "rat", and the City workers responded properly to it, then why did they want the \$300; because they were asking the Council to stand behind the people who said she could store the materials in the way they were stored. He said in 1998 there was a complaint written against this property because the construction materials required were tossed over the fence in a haphazard way which did not meet the City standards; a City inspector advised Cowan of that and further advised her that if she stacked her concrete blocks along the west side of the fence, if she laid the bricks in a flat pattern on the west side of the house, that would be acceptable. Hutcherson said the City then comes back two years later and says Cowan is harboring rats there. He said he was asking Council to stand by the City's own inspector and allow a citizen of this city to rely upon what she had been told as far as the storage of construction materials.

Hutcherson said this is a very old house and reconstruction and improvements go on constantly. He said shortly before this occurred, a big chimney had to be removed; an insurance underwriter threatened to withdraw coverage and that is where a lot of the debris came from. Hutcherson said the fact that work was in progress was evidenced by the fact that there was a two-wheel trailer parked in front of the garage and it was loaded; why City workers chose to unload the loaded trailer and put it in their own truck and haul it to the dump, he did not know. He said he felt Ms. Cowan was entitled to be compensated for the construction materials that were being used in the remodeling and rebuilding of that house in the amount of about \$300; in addition, when they load up the concrete blocks and add that to the tonnage of debris that is taken to the City dump, Cowan is entitled to an offset for the incredible amount of \$816 that was charged by the City for making this clean up. Hutcherson said he was not there on the day they cleaned it up, and he did not know what they loaded in their trucks, but some of the Council members saw the property and the pictures show what the back yard looks like today; hopefully they did not include the weight of the jeep in that tonnage, but he could not imagine taking half a day and two dump trucks.

Hutcherson said essentially Ms. Cowan was trying to recycle; there was a bathtub on the property that could be recycled. He said Cowan learned the property had been cleaned up by the City on the day she went there with a friend who would have loaded that bathtub up for her; the three tires in question had been left by a tenant who had been there for six months practically without paying any rent. Hutcherson said this was a case where they could not hire someone to do this kind of clean up; this was a case where it was being done with volunteer help, volunteer trailers, borrowing a pickup; it was a work in progress and it is still going on. He said since that time they have completely redone the kitchen, replaced the whole floor in the northwest bedroom, and the work is not completed. Hutcherson said construction materials were stored on site in accordance with the direction Cowan received from Jackie Ward; those materials were hauled to the dump and she ought to be compensated for them.

Mayor Powell asked what happened to the jeep. Hutcherson said as far as he knew, the City still had the jeep or it was located where it was towed to in the first place. Mayor Powell asked if Hutcherson was concerned about that. Hutcherson said he knew there was a potential buyer for the jeep. Vincent said the jeep is another claim. Hutcherson said the jeep could not be claimed because there was a fire and the title was lost and it has to be recovered from Idaho.

Smith said Hutcherson kept saying \$300 but the claim he was reading showed \$3,250. Hutcherson said he was speaking about the Monica Cowan claim and he circulated pictures and stated KSWO-TV had coverage showing rats in trees. He continued to speak from the audience but his comments were not audible.

Hedy Jackson provided tickets showing tonnage of debris removed from the property, as well as photographs taken by Code Administration. She said Hutcherson indicated this was a work in progress, and it has been in progress since 1998. Jackson said Hutcherson specifically mentioned the bathtub, and at 3:49 p.m. on March 4, 1998, we have a statement saying there is lumber, wood, bathtub, engine, metal or plastic sheeting, and other wood, and at that time, Code Administration went out, Jackie Ward was there, they had requested that the property be cleaned up. Jackson said she personally talked to Jackie Ward in her investigation and informed her that Hutcherson had made allegations that she had authorized the stacking of that material in that way, and that was denied to her (Jackson) by Code Administration, that the

material was authorized. She said the pictures show cable spools, limbs, branches, and garbage, and all types of things; this property has been a problem off and on since 1998, and Ms. Cowan received notice from the Health Department. Jackson said one notice was from the City of Lawton on 7/3 telling Cowan she had to take care of grass, weeds, and to make sure she got rid of all refuse around the property; the Health Department notified the City on July 7, they sent a memorandum to Mr. Baker, the City Manager, informing us it was a health problem; they said they had inspected it for junk and debris code violations, that the conditions that existed were a public health hazard, that there were piles of brush in the easement, galvanized tubing stacked on the ground, piles of concrete, abandoned vehicles which were harborage for vermin and must be removed.

MOVED by Shanklin, SECOND by Baxter, to pay Cowan \$300.

Vincent said Cowan has been presented with a bill for approximately \$800 for clean up, and asked if the motion was to be extended to waive the collection of the clean up costs. Shanklin asked if the City could legally charge for that. Vincent said under the code, we are supposed to charge her for it, both the code and State Statutes. Shanklin said we went there because of rats, and in the 1700 block of Lee you will get more debris than was at this address. Vincent said that may be true, but we were under notice from the Health Department; the Health Department sent her a notice on June 30 and the City sent her a notice on July 3, and we got an order from the Comanche County Health Department to clean it up on July 7th. Shanklin said when he called the Health Department they told him they did not have anything to do with those rats. Vincent said Shanklin then asked him to get involved. Vincent said if Council is going to approve payment of \$300, it should also waive the collection of the \$800. Mayor Powell asked if that was Vincent's recommendation. Vincent said if that is the Council's desire. Shanklin said he would include waiving the \$816 and pay her \$300 in his motion. Baxter asked about waiving the \$816. Vincent said we are trying to collect \$816 from her. Baxter said he wanted to give her the \$300 but wanted her to pay the \$816. Mayor Powell said those were parts of the things we should not have been hauling away. Baxter said there were things that needed to be hauled away. Mayor Powell said he understood that. Baxter said she should pay for that labor, but we should not have hauled away her cinder blocks, so he was willing to give her the money for the cinder blocks. Shanklin said we would not be charging the \$816 if we would not have taken the items. Baxter suggested a percentage, or take some off of the \$800.

Purcell said the pictures were dated June 28 so that was what the yard looked like before it was cleaned up. Jackson said that was correct. Purcell said that was what he saw on TV, so there was way more junk there than just cinder blocks. Jackson said everything in the pictures. Mayor Powell said cinder blocks weigh a lot more than a dead limb.

SUBSTITUTE MOTION by Devine, SECOND by Purcell, to deny the claim.

Mayor Powell asked for clarification on the original motion to pay \$300. Shanklin said it would be to pay her \$300 and to waive the \$800 landfill fee. Mayor Powell asked if the substitute motion was to deny the claim in its entirety and Devine said yes.

VOTE ON SUBSTITUTE MOTION: AYE: Devine, Purcell, Smith. NAY: Shanklin, Moeller, Haywood, Baxter, Hanna. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Shanklin, Haywood, Baxter. NAY: Purcell, Moeller, Smith, Hanna, Devine. ORIGINAL MOTION FAILED.

Baker said if Council is inclined to pay the damage claim of \$300, the \$800 is money that was actually spent by the City, or landfill fees is part of that, so really you are looking at the citizens of the community have paid \$800 to clean up this particular location in response to an order from the Health Department, so it cost the citizens of this community \$800 to clean up this property and it was in response to an order from the Health Department. Baker said paying the damage claim is one thing, but he thought we had actually spent money cleaning up this property.

MOVED by Baxter, SECOND by Haywood, to pay Monica Cowan a total of \$300 for hauling off some debris that we probably did not need to haul off, and that is it, she owes us the \$816.

Purcell asked if they wanted to write Cowan a check for \$300 and wait for her to pay the City \$816.

SUBSTITUTE MOTION by Purcell, SECOND by Smith, to forget the \$300 and she owes the City \$516. AYE: Moeller, Haywood, Baxter, Smith, Devine, Purcell. NAY: Shanklin, Hanna. SUBSTITUTE MOTION CARRIED. (Haywood and Devine passed on initial roll call)

Shanklin asked if it was normal to charge the owner, if we had done this in the past; she did not ask us to come out there and we did not find any rats. Shanklin said he was there every night and he would not argue about the debris, because there is debris in five out of seven back yards, including his. Vincent said the Health Department issued the order to the City and we had no choice. Shanklin said the Health Department told him they did not have jurisdiction and he did not know how the City Attorney got them to accept it. Shanklin said the Mayor was there. Mayor Powell said he was there.

Vincent said there are two other claims involving the same situation, and the first was Lynn Harper in the amount of \$3,250 for the removal of a carpet cleaning machine. Jackson said the carpet cleaning machine was shown in the photos that were passed around; it was a square box. Mayor Powell asked if we hauled this off too. Vincent said yes.

MOVED by Purcell, SECOND by Smith, to deny the Harper claim.

Mayor Powell asked who the carpet cleaning machine belonged to. Jackson said Lynn Harper alleged that she had loaned the carpet cleaning machine to Ms. Cowan's friend, and it was in the yard with the other debris and rubbish. Mayor Powell asked what kind of condition it was in. Jackson said at the time there were allegations that parts of it were left in the garage, evidently at the time there was nothing there, it was not all together like laying on the patio. Jackson said she did not know whether there were parts of it in the garage or not, she understood it was purchased used from a garage sale and that they had submitted the claim in the amount of a new carpet cleaning machine. Mayor Powell asked if the value shown was for a new machine and Jackson said yes. Shanklin asked if Harper was present. Jackson said she was told he was an electrician and he had an emergency call. Vincent said there is the alternative that if this is denied that it will go to District Court if Harper desires to do that.

VOTE ON MOTION: AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

Vincent said the next claim is by Albert P. Jackowiak for a jeep that was on the property; the jeep was towed by Alford's Wrecker to the City yard. The jeep is currently in the City yard and Jackowiak has been advised that if he will pay the \$72 impound fee, there is no storage charge at this time. He said the serial number has been removed from the jeep by parties unknown and Jackowiak cannot find a title. Vincent said if he would pay the \$72, he can have his jeep back. Jackson said she thought it was \$75 and that she thought we wanted him to show proof of ownership. Vincent said he would have to show proof of ownership.

Monica Cowan said it is a 1946 jeep and the VIN number is inside the motor, and it has not been filed off. She said the title burned up in a house fire and they have requested another one. Vincent said he can get the jeep back and if he is not satisfied, he can take it to District Court. Mayor Powell said it would cost him \$500 to get \$72, if he got an attorney. Purcell said the claim is for \$1,000 for the jeep, and the jeep is sitting there and he can go pick it up. Mayor Powell said he was not for charging the man, we picked it up a day early and had no right picking it up. Vincent said he would dispute Ms. Cowan, the order from the County Health Department on the 7th trumps the order from the City of Lawton on July 3rd and we had to pick the jeep up based on the County order of July 7th, it was specifically listed. Jackson said it went from just a problem with high weeds and junk to a serious health crisis, and that was why they got a notice from the Health Department and we got an order from the Health Department that we had to take action; even though we had previously told her she had a time period to clean it up, once the Health Department got involved and gave that order, we had to act.

Baxter asked if there was a tag on the jeep and if it was current. Vincent said there is no tag on the jeep.

MOVED by Baxter, SECOND by Purcell, to deny the Jackowiak claim.

Mayor Powell said he was waiting on them to confer. Purcell said they were now shown as owning the jeep and Mayor Powell said it was her boyfriend and to have a little compassion in your heart.

Cowan said the order from Tucker specifically says pile of brush, galvanized tubing, and so forth; the order says the rats were in tree or trees, so there is discrepancy there. She said the order of the administrative officer and the order she got were different. Jackson said Lawton got an order telling us specifically what the harborage was and Cowan got an order referring to a health hazard, and hers was a general order, it was not specific.

Smith said the claim was obviously going to be denied and when Cowan's boyfriend gets the title, it is just a matter of going down, paying the \$75 and picking it up.

VOTE ON MOTION: AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

LTC Puckett said the low water crossings on Fort Sill have been closed to traffic and would remain so for the next few days due to high water levels.

The following comments are inserted verbatim:

"Purcell: Yes, I just wanted to point out to Council, the Energy and Water Appropriations Bill was passed by the Congress, and even though we were told there would be \$5,000,000 in there, or they were trying to get, there was no money in there again this year, second year in a row. It didn't make it through the House Appropriations Committee, didn't make it through the Senate. When I talked to the office up there they indicated, well, it just, they wouldn't allow it through the Appropriations Committee, we'll keep looking, but we're back to the same old thing, we're not going to see money on that. Hopefully we'll get other grants, but I don't think we ought to count on getting the \$5 million bucks.

Mayor: And I don't think that's a true statement, the people I've talked with most recently, Mr. Purcell, told me completely opposite of that. It may not be, it's interesting to me that you make that report tonight and you're checking on this, you know, I'm the one that initiated that back in 1997 and I've been in constant contact with those people up there. In fact there's a letter on my desk right now from Mr. Baker about this, the Corps of Engineers is involved in it, I don't know how

they got involved in it, but you're correct on some of the things you said but not all of them. There is still hope out there, you might talk with Senator Inhoffe if you're very interested in checking everything out that I've made statements on because he's the one that told me that we would get some money out of this and he hasn't changed his verbiage any whatsoever." (end verbatim portion)

Mike Shaw, Assistant Public Works Director, said Lake Ellsworth peaked when 15 gates were open 33 inches; staff started closing the gates and at 4 p.m. today, 15 gates are open ten inches each. Six gates were open six inches each at Lake Lawtonka; at 4 p.m. today, four gates were open six inches each.

Shanklin said Council received information from the City Manager about offices being open at City Hall during the lunch hour, and it requested Council to reconsider and allow him to make a determination based upon the needs of the service and customers. He said he wanted to ask Council to give him that prerogative. Shanklin said it has created a hardship on some and it should be stopped. He asked if the rest of the Council agreed. Mayor Powell asked members who disagreed with Shanklin to get in touch with the City Manager. Purcell said he agreed with Shanklin.

Haywood said a celebration luncheon was held today for the new stove at Patterson Center.

Mayor Powell said this is Red Ribbon Week and he encouraged support of this effort.

BUSINESS ITEMS:

35. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Luckinbill, Inc. v. City of Lawton, Case No. CJ-2000-180, in the District Court of Comanche County, and if necessary, take appropriate action in open session. Exhibits: None.

36. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a settlement offer received in the pending damage claim of Stephanie Pollard against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

37. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Gordon v. City of Lawton, Case No. CS-2000-365, in the District Court of Comanche County, and if necessary, take appropriate action in open session. Exhibits: None.

38. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the case styled Rebecca Thompson v. City of Lawton, et al., Case No. CJ-2000-889, filed in the District Court of Comanche County, State of Oklahoma, and if necessary, take appropriate action in open session. Exhibits: None.

39. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the continued employment of Bill Baker as City Manager, and in open session, consider approving an Employment Agreement with Bill Baker as City Manager and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: None.

Addendum Item 2: Pursuant to Section 307B3, Title 25, Oklahoma Statutes, consider convening in executive session to receive a briefing on the status of the land acquisition for the Fire Station #5 relocation project, and if necessary, take appropriate action in open session. Exhibits: None.

MOVED by Hanna, SECOND by Baxter, to convene in executive session to consider the items so listed on the agenda and recommended by the legal staff. AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 9:50 p.m. and reconvened in regular, open session at approximately 10:30 p.m. with roll call reflecting all members present.

Vincent reported on Item 35 that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the City Council entered into executive session to discuss the case styled Luckinbill, Inc. v. City of Lawton, Case No. CJ-2000-180, in the District Court of Comanche County. He said a briefing was received on a proposed settlement offer by the plaintiffs in the case; after deliberations, the City Attorney's office recommended a motion to accept the settlement in principal and direct the City Attorney's staff to prepare the necessary documents in conjunction with the attorney for Mr. Luckinbill.

MOVED by Smith, SECOND by Hanna, to accept the settlement in principal and direct the City Attorney's staff to prepare the necessary documents in conjunction with the attorney for Mr. Luckinbill. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-103

A resolution authorizing the City Attorney to enter into an economic settlement agreement for the sum of Ten Thousand Four Hundred Twenty-Two and 59/100 Dollars (\$10,422.59) as settlement of the lawsuit styled: Luckinbill, Inc. vs. The City of Lawton, Case No. CJ-2000-180, and directing the City Attorney to prepare and file a joint stipulation of dismissal with prejudice to dismiss the case with prejudice to the refiling of any claims of either party relating to the contract for the Water Treatment Plant Clarifier Painting Project 97-12.

Vincent reported on Item 36 that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the Council entered into

executive session to discuss a settlement offer received in the pending damage claim of Stephanie Pollard against the City of Lawton. He recommended accepting the settlement offer of \$60,000 and authorize the Mayor to sign a resolution.

MOVED by Devine, SECOND by Smith, to accept the settlement offer of \$60,000 and authorize the Mayor to sign a resolution. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

(Title only) Resolution 00-99

A resolution authorizing the City Attorney to enter into a settlement agreement for the sum of Sixty Thousand Dollars and 00/100s (\$60,000.00) as settlement of claims filed by Stephany Pollard and Sage Pollard, by and through their attorney, Tommy Sims, and directing the City Attorney to assist the claimants in filing a friendly suit and prepare and file a journal entry incorporating said resolution and settlement agreement for the court's approval. (*Note: Some resolution numbers were duplicated; all resolutions remain in effect as numbered.)

Vincent reported on Item 37 that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the City Council entered into executive session to discuss the case styled Gordon v. City of Lawton, Case No. CS-2000-365, in the District Court of Comanche County. He said no action is required at this time.

Vincent reported on Item 38 that pursuant to Section 307B4, Title 25, Oklahoma Statutes, the Council entered into executive session to discuss the case styled Rebecca Thompson v. City of Lawton, et al., Case No. CJ-2000-889, filed in the District Court of Comanche County. He said no action is required at this time. Mayor Powell asked for a motion to table Item 39.

MOVED by Smith, SECOND by Baxter, to table this item to the Special Council meeting of November 7. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

Vincent reported on Addendum Item 2 that pursuant to Section 307B3, Title 25, Oklahoma Statutes, the Council entered into executive session to receive a briefing on the status of the land acquisition for the Fire Station #5 relocation project. He recommended the item be tabled to the next Council meeting, which would be November 14.

MOVED by Smith, SECOND by Hanna, to table this to the 14th with instructions to the Fire Chief to contact OSU Fire Safety to do a study on the fire station location.

Baxter asked to make a substitute motion to accept the contract offer from Mr. and Mrs. Dunbar for the land located north of the railroad tracks and east of 52nd Street. Haywood seconded the substitute motion. Smith called for a point of order stating that a substitute motion cannot be made after a motion and second have been made to table. Mayor Powell repeated the original motion and said the substitute motion cannot be made according to the City Attorney. Vincent said a motion to table takes precedence over any other motion.

VOTE ON MOTION TO TABLE: AYE: Shanklin, Moeller, Haywood, Smith, Hanna, Devine, Purcell. NAY: Baxter. MOTION CARRIED.